

STATE OF MICHIGAN
COURT OF APPEALS

In re BLACKMON, Minors.

UNPUBLISHED
November 4, 2014

No. 321637
Washtenaw Circuit Court
Family Division
LC Nos. 2013-000057-NA;
2013-000058-NA

Before: METER, P.J., and WHITBECK and RIORDAN, JJ.

PER CURIAM.

Respondent mother appeals as of right the order terminating her parental rights to her two minor children pursuant to MCL 712A.19b(3)(g) (failure to provide proper care or custody), (i) (parental rights to sibling terminated), and (j) (reasonable likelihood child will be harmed if returned). Respondent challenges the trial court's findings regarding the statutory grounds for termination and its decision regarding the children's best interest. We affirm the trial court.

I. TERMINATION OF PARENTAL RIGHTS

A. STANDARD OF REVIEW

We review for clear error a trial court's finding that a statutory ground for termination was proven by clear and convincing evidence. *In re B & J*, 279 Mich App 12, 17; 756 NW2d 234 (2008). Likewise, we review for clear error a trial court's best interest ruling. *In re Trejo*, 462 Mich 341, 357; 612 NW2d 407 (2000). "A decision is clearly erroneous when, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *In re B & J*, 279 Mich App at 17-18 (quotation marks and citation omitted).

B. STATUTORY GROUNDS

The trial court terminated respondent's rights under MCL 712A.19b(3)(i), which provides for termination when: "Parental rights to 1 or more siblings of the child have been terminated due to serious and chronic neglect or physical or sexual abuse, and prior attempts to rehabilitate the parents have been unsuccessful." Respondent admitted that her parental rights were terminated for two of her children in 2004 because she failed to protect one of them from serious physical abuse from her boyfriend. She acknowledged that the serious physical abuse resulted in the minor suffering a subdural hematoma, retinal hemorrhaging, and broken ribs; and

that she delayed in obtaining medical care for the child. In 2008, her parental rights were terminated to another child after the child tested positive for marijuana at birth. She received services before her rights to these children were terminated, but failed to complete her services program.

On appeal, respondent does not challenge MCL 712A.19b(3)(i) as a statutory ground for termination. Thus, she has abandoned any argument regarding this ground. Nor do we find any error in the trial court's finding, as it appears undisputed that respondent mother's parental rights to the children's siblings were terminated. Because only one statutory ground for termination need be established, *In re Trejo*, 462 Mich at 360, respondent's arguments regarding the other statutory grounds are moot and will not be considered.

C. BEST INTERESTS

Respondent, however, also contends that termination was not in the minor children's best interests. "Once a statutory ground for termination has been proven, the trial court must find that termination is in the child's best interests before it can terminate parental rights." *In re Olive/Metts Minors*, 297 Mich App 35, 40; 823 NW2d 144 (2012). A court may consider evidence that the children were not safe with respondent, were thriving in foster care, the need for permanency, stability, and finality, and the bond between respondents and the children. *Id.* at 41-42; *In re VanDalen*, 293 Mich App at 141; *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004).

The trial court's best-interest finding reflects a thoughtful consideration of the relevant circumstances. The trial court took notice of respondent's troubling history and failure to benefit from services during prior termination cases, as well as her failure to comply with her service plan in this case. See *In re White*, 303 Mich App 701, 714; 846 NW2d 61 (2014) (a court may consider a parent's failure to comply with her service plan when addressing a child's best interests). Even during the instant proceedings, respondent was either unwilling or unable to stay drug free, despite the fact that one of the minors at issue in this case tested positive for marijuana at birth. She continually smoked marijuana while pregnant, without any discernable concern for how this could affect the health of her children. Nor did respondent obtain suitable housing or employment. As we have held in the past, "[i]f a parent cannot or will not meet her irreducible minimum parental responsibilities, the needs of the child must prevail over the needs of the parent." *In re Terry*, 240 Mich App 14, 28; 610 NW2d 563 (2000).

Further, the trial court acknowledged that the children were placed with a maternal aunt. The aunt was amenable to adoption, which would provide the minors with a stable and permanent home. See *In re Olive/Metts Minors*, 297 Mich App at 40 (placement with a relative is an explicit factor to consider and a trial court may consider the need for permanency, stability, and finality). The court recognized that the maternal aunt had been the only stable home for at least one of the minors. See *In re White*, 303 Mich App at 714 (a court may consider the possibility of adoption when addressing a child's best interests).

Respondent, however, argues that she was given only six months to complete her service plan, and her attempts to comply were hindered because petitioner did not timely provide her with transportation or financial assistance. Nothing in the record indicates that additional time

would have made a difference, especially considering respondent's documented failure to complete her service plan. In regard to transportation, the foster care worker testified that she had given respondent a bus pass in January of 2014, but respondent still failed to complete the Dawn Farm program. Nor did the trial court rely on respondent's failure to complete her GED as a litmus test for termination. Rather, this failure was merely symptomatic of her overall failure to make any progress toward being able to provide for her children.

In light of the foregoing, we find no clear error in the trial court's finding that termination was in the minor children's best interests. *In re Olive/Metts Minors*, 297 Mich App at 40.

II. CONCLUSION

Not only was the statutory ground for termination, MCL 712A.19b(3)(i), proven by clear and convincing evidence, respondent does not even challenge this ground on appeal. Moreover, termination was in the children's best interests. We affirm.

/s/ Patrick M. Meter
/s/ William C. Whitbeck
/s/ Michael J. Riordan